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July 21, 2023

The Honorable Mary Kay Vyskocil
United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007

Rauch Industries, Inc. v. Heart Artist LLC, et al., No. 22 CV 909 (MKV) (JLC)

Dear Judge Vyskocil:

The undersigned counsel represents Plaintiff Rauch Industries, Inc. (“Rauch”) in the above-referenced action. We write to request an adjournment of the status conference currently scheduled for August 1, 2023, (ECF No. 172), to a date following the completion of discovery. Defendants do not consent to joining in this letter.

This case has been stayed since March 27, 2023 to allow the parties to focus on settlement discussions. *See* ECF Nos. 161 (“[T]he remaining fact discovery that was to be concluded by April 14 will be stayed pending further order of the court.”), 166, 170, 174. The stay was most recently extended to accommodate Defendants’ counsel’s schedule. *See* Letter at ECF No. 173 (“Counsel for Radko has had a heavy case load and has not been able to provide a more detailed settlement offer as suggested by Your Honor.”); July 7, 2023 Order at ECF No. 174 (adjourning a status conference on settlement discussions before Judge Cott to July 27, 2023).

The Parties have continued to engage in settlement discussions. Our last settlement conference before Judge Cott was on June 12, 2023, at which point Defendants promised to provide a more detailed settlement proposal. We received that proposal on July 17, 2023. The Parties have a conference before Judge Cott scheduled on July 27, 2023 to discuss their settlement progress. *See* ECF No. 174. Should the stay be lifted, the Parties would have additional fact discovery, including additional discovery ordered by Judge Cott, that includes a second deposition of Christopher Radko and completion of a “meet and confer about outstanding document discovery production,” which related to issues with Defendants’ production of documents to date (ECF No. 148), as well as all of expert discovery to complete. Rauch now seeks an adjournment of the August 1, 2023 status conference to a time when it can more effectively provide the pre-conference submissions required by the Court’s Civil Case Management Plan No. 16, including a joint letter with “a statement of whether any party anticipates filing a motion for summary judgment or a motion to exclude expert testimony,” and any necessary pre-motion letter and accompanying Rule 56.1 statement required by Individual Rule 4(A)(i).

Thank you for your attention to this matter.

Respectfully submitted,

The Hon. Mary Kay Vyskocil

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/s/ Megan K. Bannigan

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**The August 1, 2023 Status Conference is
ADJOURNED to August 24, 2023 at 12:00 PM.
SO ORDERED.**

Date: 7/26/2023
New York, New York



Mary Kay Vyskocil
United States District Judge